

### REMARKS

In the Notice of Allowance, dated December 3, 2009, the Examiner stated in the *Examiner-Initiated Interview Summary*, that

The examiner initiated the interview to clarify claim language. The applicant's representative agreed. The applicant's representative ensured that machine readable medium does not include propagation media, signal, carrier wave and the applicant is not intending to claim propagation media, signal, carrier wave to be the machine readable medium.<sup>1</sup>

Applicants agree with this characterization of the Interview summary; Applicants did agree to limit the claim language to specifically exclude any claims potentially reading on a transitory signal. However, in the *Examiner's Amendment* section of the *Notice of Allowance*, the Examiner also eliminated references to non-transitory storage media; specifically, RAMs, EPROMs, and EEPROMs. The Examiner stated,

An Examiner's amendment to the record appears below. . . .  
[00109] Elements of the present invention may also be provided as a machine-readable medium for storing the machine-executable instructions. The machine-readable medium may include, but is not limited to, hard disk drives, flash memory, optical disks, CD-ROMs, DVD ROMs, ~~RAMs, EPROMs, EEPROMs~~, magnetic or optical cards[[,]] ~~propagation media~~ or other type of machine-readable media suitable for storing electronic instructions. For example, the present invention may be downloaded as a computer program which may be transferred from a remote computer (e.g., a server) to a requesting computer (e.g., a client). ~~by-way-of-data signals embodied in a carrier wave or other propagation medium via a communication link (e.g., a modem or network connection).~~<sup>2</sup>

Applicants respectfully assert that neither RAMs, EPROMs, nor EEPROMs can be considered to be a transitory signal and, consequently, should not have been removed from Applicants' as-filed specification. Applicants therefore respectfully request that RAMs, EPROMs and EEPROMs not be stricken from the specification since they are all storage medium and cannot be considered to be transitory signals.

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<sup>1</sup> *Examiner-Initiated Interview Summary* at 2.

<sup>2</sup> *Examiner's Amendment* section of the *Notice of Allowance* at 2; emphasis added.

If necessary, please charge any additional fees or credit overpayment to Deposit Account 19-0743.

Respectfully submitted,

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By



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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 2 day of February, 2010.

Dawn R. Shaw

Name

Signature

